REMARKS

In the Office Action mailed November 7, 2006[1], the Examiner rejected claims

1-20 under 35 U.S.C. § 112, second paragraph, as being indefinite; rejected claim 20

under 35 U.S.C. § 101; and rejected claims 1-20 under 35 U.S.C. § 102(b) as being

anticipated by U.S. Patent No. 6,513,532 to Mault et al. ("*Mault '532*") which

incorporates U.S. Patent No. 6,478,736 to Mault et al. ("*Mault '736*") by reference.

By this Amendment, Applicants have amended claims 1, 2, 4, 7-9, 13, 14, and

17-20. Claims 1-20 are currently pending.

I.   The Rejection of Claims 1-20 under 35 U.S.C. § 112

The Examiner states, "[t]he term 'behavior relational' in claims 1, 2, 9, 18, 19, and

20 is a relative term, which renders the claims indefinite. The term 'behavior relational'

is not defined by the claims, the specification does not provide a standard for

ascertaining the requisite degree, and one of ordinary skill in the art would not be

reasonably apprised of the scope of the invention." (Office Action at p. 2). Claims 1, 2,

18, 19, and 20 have been amended to recite "behavior information" and no longer recite

the term "behavior relational." Moreover, the specification indicates, at p. 16, "[t]he

behavior data set 21 is a database in which data such as data, start time, end time,

present point (FROM), destination point (TO), user name, behavior label, and route

where the user traced are mutually related." Applicants submit the term "behavior

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[1] As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to certain requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicants that such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

information" is therefore sufficiently definite for one of skill in the art to understand the metes and bounds of the term. Claim 9 does not recite the term "behavior relational."

The Examiner states, "[t]he term 'behavior rule' in claims 1, 8, 10, 11, 13, 19, and 20 is indefinite. The examiner cannot understand the metes and bounds of the term therefore the term is indefinite." (Office Action at p. 2). Claim 1, for example, has been amended to recite "the behavior rule representing a tendency of the user's behavior in the past." Applicants submit the term "behavior rule" is thus sufficiently defined for one of skill in the art to understand the metes and bounds of the term. Independent claims 19 and 20 have been amended similarly. Dependent claims 8, 10, 11, and 13 are sufficiently definite with respect to the term "behavior rule" at least due to their dependence from independent claim 1.

The Examiner states, "The term 'feeling database' in claims 2, 4, 7, and 14 is indefinite. The examiner cannot understand the metes and bounds of the term therefore the term is indefinite." (Office Action at p. 2). Claims 2, 4, and 7 have been amended to recite the term "feeling description database" and do not recite a "feeling database." Claim 14 does not recite a feeling database. Moreover, the specification indicates on p. 16, "[t]he feeling data set 22 is a database in which data such as a date, start time, end time, user name, feeling, and feeling description input by the user are mutually related." Accordingly, Applicants submit claims 2, 4, 7, and 14 are sufficiently definite with respect to the term "feeling description database."

The Examiner states, "[t]he term 'condition-result' in claim 8 line 5 is indefinite. The examiner cannot understand the metes and bounds of the term therefore the term

is indefinite." (Office Action at p. 3). Amended claim 8 recites "a rule having condition and result," and no longer recites the term "condition-result rule." Applicant submits the term "rule" is sufficiently defined within claim 8 for one of skill in the art to understand the metes and bounds of the claim.

The Examiner states, "[t]he term 'seat data' in claim 9 line 5 is [] indefinite. The examiner cannot understand the metes and bounds of the term therefore the term is indefinite." (Office Action at p. 3). Amended claim 9 recites "location data" and no longer recites "seat data." Moreover, the specification indicates, at pp. 19-20, "[t]he location data set is a database in which a point, a name label, and the location are corresponded with map information recorded as map data." Applicants submit that claim 9 is sufficiently definite with respect to the term "location data."

The Examiner states, "[t]he term "constraint condition rule" claims 13, and 17 are indefinite. The examiner cannot understand the metes and bounds of the term therefore the term is indefinite." (Office Action at p. 3). Amended claims 13 and 17 recite the term "_exercise_ constraint condition rule" (emphasis added). Moreover, the specification indicates, at p. 21, "[t]he exercise constraint condition rule set 12 is a database in which the user's evaluation for the message and the recorded contents of the behavior advice set 10 are corresponded." The specification continues, at p. 30, "the advice evaluation input unit 65 integrates the user's evaluation for the advice with the behavior result, and stores the integrated result in the exercise constraint condition rule set 12. This condition rule is reused as input of the behavior schedule reorganization unit 63 and the

behavior advice generation unit 64." Therefore, Applicants submit that claims 13 and 17 are sufficiently definite with respect to the term "exercise constraint condition."

In view of the above discussion, Applicants respectfully request the Examiner to withdraw the rejection of claims 1-20 under 35 U.S.C. § 112, second paragraph.

II.   The Rejection of Claim 20 Under 35 U.S.C § 101

The Examiner states, "[c]laim 20 is rejected under 35 U.S.C. 101 because a claim to software, program, instructions, code, data structure, or a signal that does not recite a tangible computer readable medium. See MPEP 2106 IV B I (a). The examiner suggests the applicant amend the preamble of the claim to state, 'a computer readable program code on a tangible computer readable medium.'" Claim 20 has been amended in accordance with the Examiner's suggestion, and Applicants respectfully request the Examiner to withdraw the rejection under 35 U.S.C. § 101.

III.   The Rejection of Claims 1-20 under 35 U.S.C. § 102(b)

Applicants respectfully traverse the rejection of claims 1-20 under 35 U.S.C. § 102(b) as anticipated by *Mault '532*. In order to properly establish that *Mault '532* anticipates Applicants' claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *See* M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Mault '532 does not disclose each and every element of Applicants' claimed invention. Claim 1, for example, recites an apparatus for supporting a user's behavior, comprising, among other things, a "a message generation unit configured to generate a message to <u>urge the user to do an exercise by referring to the behavior rule</u> [representing a tendency of the user's behavior in the past]" (emphasis added)

Mault '532 fails to teach or suggest at least "<u>urg[ing] the user to do an exercise by referring to the behavior rule</u>," as recited in claim 1.

Mault '532 discloses "a device that combines both diet and activity monitoring" (*Mault '532*, col. 1, lines 24-25). *Mault '532* continues, "the subject manipulate[s] a control ... each time they consume food ... [t]he monitoring device records the time the control was manipulated and creates a 'food flag'. Later, the subject may use the food flags to help them recall what they ate." (*Mault '532*, col. 4, lines 56-61). However, *Mault '532* fails to disclose urging a user to do an exercise by referring to the food flag. *Mault '532*, therefore, fails to teach or suggest "<u>urg[ing] the user to do an exercise by referring to the behavior rule</u>," as recited in claim 1.

Mault '736 fails to cure the deficiencies of *Mault '532*. *Mault '736* discloses "an improved health management system for a person ... in which the person's resting metabolic rate (RMR) is determined at intervals using an indirect calorimeter." (*Mault '736*, abstract). *Mault '736* continues, "[t]he software provides goals and feedback to the user in relation to weight goals, which are modified by changing values in the metabolic rate of the user." (*Mault '736*, col. 6, lines 34-36). However, "goals and feedback" does not constitute urging a user to do an exercise by referring to a behavior

rule. *Mault '532*, therefore, fails to teach or suggest "urg[ing] the user to do an exercise by referring to the behavior rule," as recited in claim 1.

Accordingly, *Mault '532* cannot anticipate independent claim 1. Independent claims 19 and 20, although of different scope, recite elements similar to elements recited by claim 1. Applicants therefore respectfully request the Examiner to reconsider and withdraw the rejection of claims 1, 19, and 20 under 35 U.S.C. § 102(a) as being anticipated by *Mault '532*.

Claims 2-18 depend from claim 1. Since *Mault '532* does not support the rejection of claim 1 under 35 U.S.C. § 102(b), *Mault '532* also does not support the rejection of dependent claims 2-18, for at least the same reasons set forth above in connection with claim 1. Therefore, Applicants request that the rejection of claims 2-18 under 35 U.S.C. § 102(a) be withdrawn and the claims allowed.
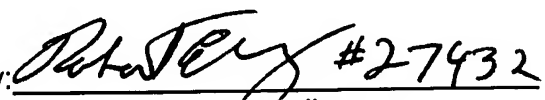
IV.   Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

If there is any fee due in connection with the filing of this Reply, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

Dated: February 7, 2007   By: _____ #27432

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-12-